

CERTIFICATE OF FACSIMILE TRANSMISSION

I hereby certify that this Response to Restriction Requirement was transmitted via facsimile transmission to the Assistant Commissioner for Patents, via facsimile number (703) 872-9306, on this 11th day of April, 2003

Louise A. Foutch
Louise A. Foutch
4/11/03
Date

Attorney Docket No. 1310

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:	Duvick, et al.	Date:	April 11, 2003
Serial No.:	10/047,825	Group Art Unit:	1638
Filed:	January 16, 2002	Examiner:	Ibrahim, Medina A.
For:	MAIZE PEROXIDASE GENES AND THEIR USE FOR IMPROVING PLANT DISEASE RESISTANCE AND STALK STRENGTH		

Assistant Commissioner for Patents
Washington, D.C. 20231

RESPONSE TO RESTRICTION REQUIREMENT

This is in response to the Office Action mailed March 12, 2003, in which the Examiner has required restriction to one of the following inventions:

- I. Claim 1, drawn to isolated polypeptides having specified sequences, classified in class 530, subclass 372.

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- II. Claims 2-5, drawn to isolated nucleotide sequences having specified sequences, an expression vector and a host cell transformed with said nucleotide sequences, classified in class 435, subclass 69.1.
- III. Claims 6-31, drawn to a method for enhancing the defense response of a transgenic plant, plant cells and plants, classified in class 800, subclass 279.
- IV. Claims 32-38, drawn to a method for enhancing stalk strength of a transgenic plant, classified in class 800, subclass 290.
- V. Claim 39, drawn to a method for preventing oxidative damage of a transgenic plant, classified in class 800, subclass 278.
- VI. Claims 40-41, drawn to a method for breeding pathogen resistance into a plant, classified in class 800, subclass 260.
- VII. Claims 42-43, drawn to a method for detecting expression of a nucleic acid in a plant, classified in class 435, subclass 6.

Furthermore, the Examiner has required an election of a single polynucleotide and its corresponding polypeptide.

Applicants hereby provisionally elect without traverse to prosecute the claims of Group II, claims 2-5, drawn to isolated nucleotide sequences having specified sequences, an expression vector and a host cell transformed with said nucleotide sequences, classified in class 435, subclass 69.1, and expressly reserve the right to file divisional applications or take such other appropriate measures deemed necessary to protect the inventions in the remaining claims. Furthermore Applicants hereby provisionally elect without traverse to prosecute invention (B), which corresponds to SEQ ID NO: 3 or a nucleotide sequence encoding SEQ ID NO: 4 and expressly reserve the right to file divisional

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applications or take such other appropriate measures deemed necessary to protect the inventions in the remaining sequences.

Should the Examiner have further questions or comments with respect to examination of this case, it is respectfully requested that the Examiner telephone the undersigned attorney so that further examination of this application can be expedited.

It is not believed that extensions of time or fees for net addition of claims are required beyond those, which may be otherwise provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 CFR § 1.136(a), and any fee required therefore is hereby authorized to be charged to Deposit Account No. 16-1852.

Respectfully submitted,

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APR 12 2003
GROUP 1600

TO: Assistant Commissioner for Patents
FROM: Louise Foutch
RE: Serial No. 10/047,825 – Our Ref. No. 1310
DATE: 04-11-03 FAX NUMBER: 703-872-9306

OFFICIAL

NUMBER OF PAGE(S) FOLLOWING THIS SHEET: 4

COMMENTS:

Attached please find the following documents;

1. Transmittal of Response to Restriction Requirement
2. Response to Restriction Requirement

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TRANSMITTAL OF RESPONSE TO RESTRICTION REQUIREMENT

Attached hereto is a Response to Restriction Requirement in the above-identified application. No fee is required for this response.

The Commissioner is hereby authorized to charge any patent application processing fees associated with this response, or to credit any overpayment, to Deposit Account 16-1852. A duplicate copy of this sheet is enclosed.

Respectfully submitted,

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